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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,933	11/28/2001	Christopher L. Casler	CASL01NP	2008

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EXAMINER

FINEMAN, LEE A

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,933

Applicant(s)

CASLER, CHRISTOPHER L. 

Examiner

Lee Fineman

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,9,10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,9,10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8 June 2004 has been entered in which claims 1-2, 4, 9, 10 and 12 were amended and claims 3, 5-8, 11 and 13-16 were cancelled. Claims 1-2, 4, 9, 10 and 12 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4, 9-10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keitoku, U.S. Patent No. 5,036,188 in view of Harwood, United Kingdom Patent No. GB 1,500,495 A and Haddock, U.S. Patent No. 4,912,880 or Takahashi et al., U.S. Patent No. 4,921,330

Keitoku discloses audio-visual (e.g. TV or stereo, column 1, lines 14-15) remote controlled retail electronic device (figs. 8 and 9) with a plane transparent portion (2) for an infrared receiver (3) as well as a hemispheric lens (figs. 1-4, 6-7) comprising a lens body (11)

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made from a material substantially transparent at an infrared wavelength received by the receiver, and being used for increasing the acceptance angle over which the infrared signals are received by the infrared receiver (column 2, lines 30-45).

Keitoku is silent as to the transparent hemispheric lens body being fabricated from a dielectric material, in particular acrylic plastic; having a substantially hemispheric concave inner and convex outer surface, having a substantially flat annular surface connecting the inner and outer surfaces, an adhesive layer comprising double-sided adhesive tape provided on the annular surface for securing the lens to a face of the remote-control device and wherein the lens body hemispheric inner surface is about 3/8 inch in diameter and the lens body hemispheric outer surface is about 1/2 inch in diameter. Keitoku also does not explicitly disclose purchasing or selling the hemispheric lens for retrofitting the remote-controlled electronic retail entertainment device

Harwood teaches a hemispheric lens (4), made of acrylic plastic, having a substantially hemispheric concave inner and convex outer surface and having a substantially flat annular surface connecting the inner and outer surfaces lens (figure) which is secured to the device (1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the lens of Keitoku from a transparent dielectric material, in particular acrylic plastic, and have a substantially hemispheric concave inner and convex outer surface with a substantially flat annular surface connecting the inner and outer surfaces lens as suggested by Harwood, to provide cost savings by using reduced amounts of less expensive materials. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a 1/2-inch exterior, 3/8-inch interior diameter lens, since it has been held that where the

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general conditions of a claim are disclosed in the prior art, discovering an optimum value or working ranges involves only routine skill in the art. One would have been motivated to use a specific lens diameter, like the claimed values, for the purpose of providing specific acceptance angles/angles of view. *In re Aller*, 220 F.2d 454, 456 105 USPQ 233, 235.

Harwood also teaches that the hemispheric lens attachment (figure) is added (retrofit) to a known device (page 1, lines 75-78) to increase acceptance angles of the device (page 1, lines 23-26). It would have been obvious to one of ordinary skill in the art to retrofit the known device (figs. 8 and 9) of Keitoku with a lens like that of Harwood, to increase the acceptance angles of the device. Additionally, it would also have been obvious to obtain the add-on lens by a retail purchase or sale because that is a conventional method of obtaining add-on devices. Furthermore, with regard to claim 9, it would also have been obvious to include instructions for such an add-on lens assembly because it is conventional to include instructions to properly add the element which would result in "instructing" of the end-user as set out in claim 9.

Finally, while Keitoku or Harwood do not explicitly teach an adhesive layer to secure the hemispheric lens to a device, it is very well known to use an adhesive layer, like double sided tape, to connect optical elements as illustrated by Haddock et al, see especially column 9, lines 31-35, and Takahashi et al, see especially column 4, lines 59-64. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use double-sided adhesive tape to secure the hemispheric lens of Keitoku in view of Harwood as set forth above since it is a well-known cost effective method of adhesion.

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Response to Arguments

4. Applicant's arguments with respect to claims 1-2, 4, 9-10, and 12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LAF
August 4, 2004



MARK A. ROBINSON
PRIMARY EXAMINER